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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,988	09/25/2003	Thomas H. McLaughlin SR.	086399-9089-00	4515
7590 05/03/2004			EXAMINER	
Michael Best & Friedrich LLP 100 East Wisconsin Avenue Milwaukee, WI 53202-4108			WILSON, LEE D	
			ART UNIT	PAPER NUMBER
			3723	
DATE MAILED: 05/03/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,988

Applicant(s)

MCLAUGHLIN ET AL.

Examiner

LEE D WILSON

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 8-14 and 16-17 is/are rejected.
- 7) ☒ Claim(s) 7 and 15 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/2/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over NPL (Sam's club 803184) in view of Pietrusynski (6416039).

a. NPL (Sam's club 803184) discloses claimed invention except for a lifting handle.

b. Pietrusynski discloses a jack having at least one handle (80) and a lifting handle (45) attached to the rear of the jack which allows the user to lift the jack from the rear.

c. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the NPL device by providing a lifting handle as taught by Pietrusynski which allows the user to lift the jack from the rear.

d. In regard to claims 2 and 9, the modified NPL discloses the claimed invention except for a device which is less than 60 pounds as a result of the material being use such as aluminum. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have use the known lightweight material such as aluminum, since it has been held to be within the

general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

3. Claims 6, 11-14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over NPL (Sam's club 803184) as applied to claims 1-5 and 8-10 above, and further in view of Vesely (5419534).

e. NPL is discussed above.

f. NPL does not disclose a second rolling member.

g. Vesely discloses a jack having a second rolling member of the cylindrical type which is used as a known equivalent for wheels. (This same modification is also disclosed by applicant on page 6, lines 13-15. The rolling member 82 shown is as a cylinder-type roller, however, one or more wheels, casters, roller balls or other equivalents could be used.)

h. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified NPL device by providing a second rolling member as taught by Vesely which is used as a known equivalent for wheels.

4. Claims 1-5 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunnhoelzl (6435477) in view of and Hsu (20040065871) and Pietrusynski (6416039).

i. Brunnhoelzl discloses claimed invention except for a lifting handle and at least one positioning handle.

j. Pietrusynski discloses a jack having at least one handle (80) attached to side members and a lifting handle (45) attached to the rear of the jack which allows the user to lift the jack from the rear and Hsu discloses a jack having at least one handle attached to side members which allow the jack to be lifted up by hand from the side.

k. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Brunnhoelzl device by providing a lifting handle and at least one handle as taught by Pietrusynski and Hsu which allows the user to lift the jack from the rear and lift the jack by hand from the side.

l. In regard to claims 2 and 9, the modified Brunnhoelzl discloses the claimed invention except for a device which is less than 60 pounds as a result of the material being use such as aluminum. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have use the known lightweight material such as aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

5. Claims 6, 11-14, and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brunnhoelzl (6435477) as applied to claims 1-5 and 8-10 above, and further in view of Vesely (5419534).

m. Brunnhoelzl is discussed above.

n. Brunnhoelzl does not disclose a second rolling member.

- o. Vesely discloses a jack having a second rolling member of the cylindrical type which is used as a known equivalent for wheels. (This same modification is also disclosed by applicant on page 6, lines 13-15. The rolling member 82 shown is as a cylinder-type roller, however, one or more wheels, casters, roller balls or other equivalents could be used.)
6. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Brunnhoelzl device by providing a second rolling member as taught by Vesely which is used as a known equivalent for wheels.

Allowable Subject Matter

7. Claims 7 and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hsu disclose a device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D WILSON whose telephone number is 703-305-4094. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ldw

April 26, 2004

A handwritten signature in black ink, appearing to read 'Lee D. Wilson', written in a cursive style.

**LEE D. WILSON
PRIMARY EXAMINER**